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**From:** Robert Loigman  
**Sent:** Thursday, February 25, 2010 1:56 PM  
**To:** 'Chockley, Frederick W.'; 'Hirschfield, Marc E.'  
**Cc:** Robert Dakis; Joseph Hammond; Sarah Rubin  
**Subject:** BLMIS -- Kingate  
**Attachments:** PWC.PDF; FIM.PDF; KML - ownership.pdf; KML - provision of information & imaging.pdf

Fritz and Marc: Further to our discussion of late last week, I attach a few of the recent letters that the Joint Liquidators of the Kingate Funds and their representatives have sent to PWC, KML, and FIM. As we've discussed, the JLs are actively seeking information from all three of these parties.

Please let us know if you will be providing us with a copy of the trustee's application in the UK to obtain documents from FIM.

Regards,  
Bob

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INTERNATIONAL LAWYERS

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**Sedgwick  
Chudleigh**

BARRISTERS AND ATTORNEYS

Friday, January 29, 2010

Appleby Global,  
Canon's Court,  
22 Victoria street,  
Hamilton,  
HM EX  
Bermuda

Attn: Ms K. Bell

By E-Mail

Dear Sirs ,

**Kingate Euro Fund Limited (in liquidation) and Kingate Global Fund Limited (in liquidation)  
(the 'Funds')**

We refer to your letter to Mr John McKenna dated 14 December 2009. It will not surprise you to learn that we completely disagree with what you say about the winding up orders made by the Bermuda Court and the standing of the Liquidators appointed under them.

The position your clients take leads ours to conclude that yours will do everything they can to avoid having to make the disclosures to our clients that they have asked for. The Liquidators are in the course or preparing an application to the Court. We write today to inform you that our clients have issued (but do not intend yet to serve) a writ against your clients in respect of their 2003 audits of the Funds. They have been constrained to do so largely because of your clients' failure to co-operate with them as noted above; they were put in the position of having to issue in order not to fall foul of a limitation bar.

Accordingly, this writ is entirely protective in nature, at this stage, and we emphasise that our clients have taken no decision to pursue any claims against your clients. Instead, they are engaged in a fact-gathering process in order to try to determine whether or not they or the Funds should pursue any causes of action against your clients and others, and in the meantime have issued this writ in order that the Funds, their creditors and members should not be prejudiced by the passing of a limitation deadline.

Yours faithfully,



**SEDGWICK CHUDLEIGH**

**By: Cameron Hill**

*Sedgwick Chudleigh is an independent law firm under the Bermuda Bar Act 1974  
Associated with Sedgwick, Detert, Moran & Arnold LLP, [www.sdma.com](http://www.sdma.com)*



25 November 2009

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Mr D Dwyer  
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P.O. Box HM809  
Hamilton, HMZX  
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Dear Dennis

**Kingate Global Fund Limited and Kingate Euro Fund Limited - both in Liquidation (the "Funds")**

Your client: Kingate Management Limited ("KML")

Thank you for your long letter of 23 November 2009. I have also received Katie Richard's email of 24 November 2009.

I do not propose to respond at similar length but merely to observe that it is common ground that the process of segregating documents we previously identified has failed for reasons associated with the volume and quantum of data not being as had been understood and expected by me on the basis of information I had received. I think it best to leave it there; there is no point in re-rehearsing the arguments.

It is now clear from your letter and the email in response to my letter of 17 November, that you have embarked upon a process of production and segregation over which I have no visibility. You have advised that a Mr. Garry Pate of Capsicum Group, LLC, of whom I know nothing, has undertaken the work but you have not explained the criteria provided for the segregation of data nor the methodology adopted. Nonetheless, you have advised me that data is available and I will, as requested, arrange for it to be collected by a representative of Sedgwick Chudleigh and I will review it. Meanwhile please explain precisely how this material has been created. Without pre-judging matters, I must inform you that, unless I am satisfied with the material and processes and methodology employed in extracting it, I will not hesitate to make an application to the Court.

I have now agreed the charges of Kroll Ontrack at a discount from sums requested by them three or four weeks ago. I should forward to KML an invoice in respect of its contribution to the cost as we had previously agreed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'W R Tacon', written over a horizontal line.

**W R Tacon**  
Joint Liquidator

# Sedgwick Chudleigh

BARRISTERS AND ATTORNEYS

16 February 2010

Hamilton Nominees Limited  
2 Reid Street  
Hamilton HM 11  
Bermuda

mark.chudleigh@sedgwick-chudleigh.com

Dear Sirs,

**Re: Kingate Management Limited ("KML")**

We act on behalf of the Joint Liquidators who have been appointed by order of the Bermuda Supreme Court in respect of Kingate Global Fund Ltd. and Kingate Euro Fund Ltd. ("the Funds"). Throughout the period of their operations, the Funds engaged KML to provide various services, including, but not limited to, management services and acting as investment manager.

As part of their ongoing investigations the Joint Liquidators wish to ascertain the identity of the beneficial owners of KML. The Joint Liquidators have obtained a copy of the company's Register of Members from the Bermuda Registrar of Companies. The Register merely indicates that its shares were held from 24 February 1994 to 5 March 2001 through Hemisphere Holdings Limited and then from 5 March 2001 to present through Hamilton Nominees Limited. The Joint Liquidators need to establish the identity of KML's ultimate beneficial ownership as part of their enquiries into the activities of the Funds.

We have been instructed by the Joint Liquidators to request from you full details of KML's ownership, from the date of its incorporation to present. We would be grateful for any information that you are able to provide in this regard.

Although the Joint Liquidators hope that you will provide this information voluntarily and thereby save costs, we must point out that they are possessed of powers to compel the production of the same by virtue of the provisions available to them under s195 of the Bermuda Companies Act 1981. The Joint Liquidators will not hesitate to use those powers should your voluntary assistance not be forthcoming.

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We look forward to hearing from you by no later than by the close of business on 24 February 2010, failing which we are instructed to commence the procedure for making an application under s195.

Should you have any question, please contact the under-signed.

Yours faithfully,  
**SEDGWICK CHUDLEIGH**

By:  Mark Chudleigh

*Global 4/FIM*



15 December 2009

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*For the attention of Philip Niel*

Dear Sirs

**Kingate Global Fund, Ltd. and Kingate Euro Fund, Ltd - in Liquidation (the "Funds")**

Thank you for your letter of 4 December 2009. Please arrange for copies of the documents I have requested to be delivered to my office in London at 10 Fleet Place, London, EC4M 7RB for the attention of Nick Edwards. Mr. Edwards may be contacted on 020 7332 5141 or at [NEdwards@zolfocooper.eu](mailto:NEdwards@zolfocooper.eu).

As I am sure you are well aware, I am attempting to construct a picture of the formation and activities of the Funds of which I am liquidator, conducted through its directors and its other agents and sub-agents, in order to carry out my statutory duties. I consider that I require the information requested from you for this purpose.

I consider that I am entitled to this information by virtue of s.282 of the BVI Insolvency Act 2003, which provides that a person who was involved in the promotion or formation of the company in question may be required by an office holder to provide him with such information concerning the company, including its business, dealings and affairs, as he may reasonably require.

FIM Advisers LLP confirmed in their letter of 19 October 2009 that FIM Limited established the Funds, and you would therefore appear to fall within the category of persons whom I may require to provide this information.

You will no doubt have been advised that the BVI is one of the territories designated for the purposes of s.426 of the UK Insolvency Act 1986 under which assistance may be sought from the English Court by courts exercising an insolvency jurisdiction, and that in granting such assistance the English Court may apply the insolvency law of either court.



I should also mention for the sake of completeness that I am also, of course, in a position to constitute myself a "foreign representative" under the UK Cross-Border Insolvency Regulations 2006 and thus ask the English Court to provide me the powers available under s.236 of the UK Insolvency Act, including that to apply to the Court to summon any person who the Court thinks capable of giving information concerning the promotion, formation, business, dealing, and affairs or property of the company. There can be little doubt that you fall within this category as well.

I trust that the above explanation is sufficient and that you will now address the questions raised in my letter of 23 November 2009. Should a satisfactory response not be forthcoming then I will take steps to invoke the assistance of whichever Court is most convenient.

Yours faithfully

A handwritten signature in black ink, appearing to read 'W R Tacon'.

**W R Tacon**  
Joint Liquidator



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For the attention of: Nick Edwards

22 December 2009

**By courier**

Dear Sirs

**Kingate Global Fund, Ltd. and Kingate Euro Fund, Ltd. – in liquidation**

We refer to our recent correspondence with Mr Tacon of your firm's office in the British Virgin Islands.

Further to Mr Tacon's letter to us dated 15 December 2009 confirming to which address certain documents should be sent, we enclose copies of the documents that Mr Tacon requested in his letter dated 24 November 2009.

Please confirm safe receipt to Philip Niel of this office ([pniel@fim-group.com](mailto:pniel@fim-group.com)).

Yours faithfully,

*FIM Advisers LLP*

FIM Advisers LLP